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5 NEHEMIAH AVILA

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8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

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11 UNITED STATES OF AMERICA,
12 Plaintiff,
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14 vs.
15 NEHEMIAH AVILA, CEASAR MARTINEZ,
and RICARDO MARMOLEJO,
16 Defendants.

17 Case No.: 2:21-cr-020 TLN

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19 STIPULATION AND ORDER
CONTINUING STATUS CONFERENCE
AND EXCLUDING TIME UNDER THE
SPEEDY TRIAL ACT

20 Date: December 16, 2021
21 Time: 9:30 a.m.
22 Court: Hon. Troy L. Nunley

23 Plaintiff United States of America by and through Assistant United States Attorney
24 Adrian Kinsella, and Attorney Todd Leras on behalf of Defendant Nehemiah Avila, Attorney
25 Michael Long on behalf of Defendant Ceasar Martinez, and Attorney Dina Santos on behalf of
26 Defendant Ricardo Marmolejo, stipulate as follows:
27 ORDER CONTINUING STATUS
CONFERENCE
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1. This matter was set by previous stipulation of the parties for a status conference before Senior United States District Judge Morrison C. England, Jr., on December 16, 2021. By an Order, filed November 9, 2021, Chief District Judge Kimberly J. Mueller reassigned this matter to this Court based on the senior status of Judge England (Docket Entry 55). The Order further vacated all currently set dates and directed the parties to file appropriate paperwork setting new dates. By this stipulation, Defendants Avila, Martinez, and Marmolejo move to continue the status conference to February 24, 2022. The government does not oppose the request.
2. This case involves a conspiracy to distribute controlled substances. Investigation of the matter included the use of controlled purchases and court-authorized wiretaps. The government has provided defense counsel with discovery materials, including more than one thousand audio files of intercepted telephone calls, which can accurately be described as voluminous.
3. All defense counsel require additional time to review discovery materials with their respective clients and to conduct investigation as to potential defenses.
4. Given the need for defense investigation, Defendants Avila, Martinez, and Marmolejo request to continue the status conference in this matter to February 24, 2022, at 9:30 a.m., and to exclude time between December 16, 2021 and February 24, 2022, inclusive, under Local Code T-4. Time has previously been excluded at the request of Defendants up to and including December 16, 2021.
5. All defense counsel represent and believe that failure to grant additional time as requested would deny Defendants Avila, Martinez, and Marmolejo the reasonable

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time necessary for effective preparation, considering the exercise of due diligence.

6. Based on the above-stated facts, Defendants Avila, Martinez, and Marmolejo request that the Court find that the ends of justice served by continuing the case as requested outweigh the best interest of the public and the Defendants in a trial within the time prescribed by the Speedy Trial Act.
7. For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161, *et seq.*, within which trial must commence, the time period of December 16, 2021 to February 24, 2022, inclusive, is deemed excludable pursuant to 18 U.S.C. § 3161(h)(7)(A), and (B) (iv) [Local Code T-4] because it results from a continuance granted by the Court at Defendants' request on the basis that the ends of justice served by taking such action outweigh the best interest of the public and the Defendants in a speedy trial.
8. Nothing in this stipulation and order shall preclude a finding that other provisions of the Speedy Trial Act dictate that additional time periods are excludable from the period within which a trial must commence.

Assistant U.S. Attorney Adrian Kinsella, Attorney Michael Long on behalf of Defendant Ceasar Martinez, and Attorney Dina Santos on behalf of Defendant Ricardo Marmolejo have reviewed this stipulation and proposed order and authorized Todd Leras via email to sign it on behalf of their respective clients.

DATED: November 22, 2021

PHILLIP A. TALBERT
Acting United States Attorney

By /s/ Todd D. Leras for
ADRIAN T. KINSELLA
Assistant United States Attorney

ORDER CONTINUING STATUS
CONFERENCE

1 DATED: November 22, 2021

2 By /s/ Todd D. Leras
3 TODD D. LERAS
4 Attorney for Defendant
5 NEHEMIAH AVILA

6 DATED: November 22, 2021

7 By /s/ Todd D. Leras for
8 MICHAEL D. LONG,
9 Attorney for Defendant
10 CEASAR MARTINEZ

11 DATED: November 22, 2021

12 By /s/ Todd D. Leras for
13 DINA SANTOS
14 Attorney for Defendant
15 RICARDO MARMOLEJO

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ORDER

BASED ON THE REPRESENTATIONS AND STIPULATION OF THE PARTIES, it is hereby ordered that following reassignment of this matter from Senior United States District Judge Morrison C. England, Jr., to United States District Judge Troy L. Nunley, a new status conference is scheduled for February 24, 2022, at 9:30 a.m. The Court further finds, based on the representations of the parties and the request of all defense counsel, that the ends of justice served by granting the request to set this matter for a new status conference date outweigh the best interests of the public and the Defendants in a speedy trial. Time shall be excluded under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(B)(iv) and Local Code T-4, to allow necessary attorney preparation taking into consideration the exercise of due diligence for the period from December 16, 2021, up to and including February 24, 2022.

IT IS SO ORDERED.

DATED: 11/23/2021


Troy L. Nunley
United States District Judge

Troy L. Nunley
United States District Judge

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CONFERENCE**